

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF PUERTO RICO

IN RE
RAFAEL RAMOS SANTOS &
JOHANA MARRERO BOU
Debtors

BANKRUPTCY 15-06238 BKT
CHAPTER 13

Dismissed at doc #108 & Appeal filed #111

DEBTOR REQUEST TO VACATE & SET ASIDE DISMISSAL IN LIEU OF
CONTINUATION OF APPEAL

TO THE HONORABLE COURT:

COME NOW debtors RAFAEL RAMOS SANTOS & JOHANA MARRERO BOU and respectfully pray for the setting aside of the dismissal as follows:

1. This case was dismissed on October 20, 2016 [doc #107 & #108] on Baxter Credit Union's [BCU] *Second Motion to Dismiss* filed on September 9, 2016 at doc #100.
2. BCU's *Second Motion to Dismiss* was timely contested at doc #106 by debtors, denying the *Motion's* allegations of intentional delay by debtors in the confirmation process. Debtors in their *Response & Opposition* contested BCU's allegations and argued that the delay in the confirmation process was neither intentional nor attributable to debtors, having diligently defended their 4 plans against the 10 unfavorable reports on confirmation.
3. On November 3, 2016 debtors filed an Appeal now pending before the First Circuit Bankruptcy Appellate Panel filed at doc #111. The Appellate Brief became due and was submitted on March 27, 2017.
4. The Appeal challenges the lack of cause to dismiss and that no hearing on the contested *Second Motion to Dismiss* was afforded to debtors prior to the dismissal, despite debtors' response and contest to BCU's motion.
5. Recently, debtors, Appellant therein, requested from the B.A.P. an extension of time in which to file their Appellate Brief and requested a Stay of Deadlines, wherein Appellant informed the B.A.P. that the extended time or stay requested would be with purpose of continuing settlement negotiations with BCU and the Chapter 13 Trustee to allow the reactivation of the bankruptcy

case in order to avoid the increasing cost of the pending appeal for all parties and to continue good faith efforts at settlement commenced in close proximity to the filing of the Appeal. The Panel did not grant a stay of deadlines, but did extend the time to Appellant to file their Appeal Brief until March 27, 2017.

6. After many exchanges, conversations and meetings between debtors' counsel, Trustee staff and BCU, an acceptable Plan base and provisions for an amended chapter 13 Plan, has been informally reached in the case, subject to the setting aside of the dismissal to allow the case to proceed under the Bankruptcy Court's jurisdiction.
7. Under the circumstances, debtors request that the Court vacate and set aside the dismissal of the chapter 13 case in order to allow the case to move forward to confirmation and in lieu of the pending appeal.
8. Subject to this Court's decision, debtors will file the Plan as informally has been submitted to the parties in interest and creditor BCU within 14 days of this Court's favorable decision to vacate the dismissal.
9. The default created after the dismissal of 5 installments of \$675 [November to March] will be paid within 14 days of this Court's decision to vacate and set aside the dismissal of the case.
10. Likewise, the MOR's that have become due during the dismissal, will be submitted promptly for October 2016 to March 2017 within 14 days of this Court's decision to vacate and set aside the dismissal of the case.
11. Subject to this Court vacating the dismissal, debtors will withdraw their Appeal before the First Circuit B.A.P. so as to not incur in further expense to the parties and reinstate the bankruptcy court's jurisdiction in the chapter 13 case.
12. At this time, debtors' proposal of a new amended Plan with an increased base and provisions is acceptable to the chapter 13 Trustee requiring only minor adjustments or synchronization at this time, subject to and upon the Court's approval to the vacate the dismissal of the bankruptcy case.

13. An application for compensation of Attorney Fees will be filed by counsel for debtors within 14 days of this Court's decision.
14. The Appeal brief that became due on March 27, 2017 has been submitted by debtors to the First Circuit B.A.P. to conserve rights of appeal until and subject to the decision of this Court.
15. Debtors request a shortened notice period of 7 days to mitigate the period of time that is running for Appellee's Reply Brief in Appeal 16-0060 before the First Circuit B.A.P.

WHEREFORE, debtors respectfully pray as follows:

- a. That the dismissal at doc #108 be vacated and set aside;
- b. that the chapter 13 case be reinstated and allow the confirmation process to proceed forward with the curing of all pending matters by debtors as outlined herein within 14 days of the decision of this Court;
- c. allow the filing of counsel for debtor's Application for Compensation within 14 days of the decision of this Court;
- d. that the notice and opportunity for opposition period of 14 days under Local Rules be shortened to 7 days;
- e. Any remedy that this Court deems necessary and proper.

NOTICE

Within seven (7) days after service as evidenced by the certification, and an additional three (3) days pursuant to Fed. R. Bank. P. 9006(f) if you were served by mail, any party against whom this paper has been served, or any other party to the action who objects to the relief sought herein, shall serve and file an objection or other appropriate response to this paper with the Clerk's office of the U.S. Bankruptcy Court for the District of Puerto Rico. If no objection or other response is filed within the time allowed herein, the paper will be deemed unopposed and may be granted unless: (I) the requested relief

is forbidden by law; (ii) the requested relief is against public policy; or (iii) in the opinion of the Court, the interest of justice requires otherwise.

I HEREBY CERTIFY, that on this same date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF Filing System which will send a notification, upon information and belief, of such filing to the U.S. Trustee and to all subscribed users, including Ms. Rosamar Garcia Fontan, Esq. at rgarcia@fgrlaw.com, Mr. Jose R. Carrion, Esq. at jcarrion@ch13-pr.com, Ms. Mayra Arguelles, Esq at marguelles@ch13-pr.com, Ms. Alexandria Carrion, Esq. at arodriguez@ch13-pr.com

JOSE RAMON CARRION MORALES newecfmail@ch13-pr.com

MIGDALIA EFFIE GUASP for BPPR megbky@bppr.com,

migdalia.guasp@popular.com migdalia.guasp@popular.com

ROSAMAR GARCIA FONTAN for BAXTER CREDIT UNION

rgarcia@fgrlaw.com rgarcia@ecf.courtdrive.com; acordero@fgrlaw.com;

lferran@fgrlaw.com; rcabrera@fgrlaw.com; cmoscoso@fgrlaw.com

MONSITA LECAROSZ ARRIBAS ustpreregion21.hr.ecf@usdoj.gov

SERGIO A RAMIREZ DE ARELLANO for BPPR

sramirez@sarlaw.com, sramirez@ecf.courtdrive.com

EDUARDO M VERAY for BPPR – SPECIAL

LOANS eduardo.veray@popular.com eduardoveray@gmail.com

Notice will be mailed to those not participants in CmEcf electronic noticing as taken from the Court's Matrix mailing Index obtained on this same date:

Quantum3 Group LLC for Sadino Funding LLC: PO Box 788 Kirkland WA 98083-0788

Adm Svcs Médicos de PR PO Box 2129 San Juan PR 00922-2129

American Express Centurion Bank Becket & Lee PO Box 3001 Malvern PA 19355 -0701

BC Santander/Santander Consumer USA Santander Consumer USA PO Box 961245

CRIM BANKRUPTCY DIVISION PO BOX 195387 San Juan, PR 00919-5387

ELA DEPT OF TREASURY Office 424 B PO BOX 9024140 San Juan PR 00902-4140

Eduardo T Arrieta Igartua Elias A Rodriguez Esq PO Box 1146 Sabana Seca 00952-1146

Ermelinda López Rodríguez PO Box 8550 Humacao PR 00792-8550

GECRB/JC Penney PR Bankruptcy PO Box 103104 Roswell GA 30076-9104

IRS PO BOX 7346 Philadelphia PA 19101-7346

Midland Credit Management Inc PO Box 2011 Warren MI 48090-2011

Municipality of Dorado PO Box 588 Dorado PR 00646-0588

Municipality of Corozal 9 Calle Cervantes Corozal PR 00783-2047

In Caguas, Puerto Rico, this March 28, 2017.

s/ LA Morales

LYSSETTE A. MORALES VIDAL

USDC PR #120011

L.A. MORALES & ASSOCIATES P.S.C.

URB VILLA BLANCA

#76 AQUAMARINA

CAGUAS Puerto Rico 00725-1908

TEL. (787) 746-2434 / 258-2658

FAX (1-855) 298-2515

E-mail: lamoraleslawoffice@gmail.com